

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TERRANCE RANGE,

Defendant.

No. 06mj249

**ORDER**

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This matter came on for detention hearing on August 28, 2006. Assistant U.S. Attorney Shawn Wehde appeared on behalf of the plaintiff (the "Government"). The defendant Terrance Range ("Range") appeared in person with his attorney, Assistant Federal Defender Robert Wichser. The Government offered the testimony of Task Force Agent Brad Downing.

The court must determine whether any condition or combination of conditions will reasonably assure Range's appearance as required, as well as the safety of any other person and the community, in deciding whether to grant the Government's motion for detention. 18 U.S.C. § 3142(e). A defendant may be detained based on a showing of either dangerousness or risk of flight; it is not necessary to show both. *United States v. Apker*, 964 F.2d 742, 743 (8th Cir. 1992); *United States v. Sazenski*, 806 F.2d 846,848 (8th Cir. 1986).

The court is to presume that no condition or combination of conditions will reasonably assure the appearance of Range as required and the safety of the community if the court finds there is probable cause to believe Range committed an offense of the type identified in 18 U.S.C. § 3142(e) for which a maximum term of imprisonment of ten years or more is prescribed by law. 18 U.S.C. § 3142(e); *see* 18 U.S.C. § 3142(f). The probable cause element of section 3142(e) that triggers the rebuttable presumption of risk

of flight and danger to the community may be established through evidence presented at the detention hearing of an offense which is subject to the rebuttable presumption. *See Apker*, 964 F.2d at 744; *United States v. Dorsey*, 852 F.2d 1068, 1069 (8th Cir. 1988).

In the present case, the evidence indicates Range has been wholly unable to comply with conditions of release, and has continued to engage in criminal activity while on probation and parole from previous offenses. In addition, Range has failed to offer any evidence to rebut the presumption that he is a danger to the community. The presumption arises from the charge itself – a serious drug charge involving the possession with intent to distribute a significant quantity of drugs. *See United States v. Cox*, 635 F. Supp. 1047, 1055 (D. Kan. 1986) (citing *United States v. Fortna*, 769 F.2d 243, 247 (5th Cir. 1985)). Although the record contains no evidence that Range is a flight risk, the court finds the totality of the record indicates Range would be unable to refrain from continuing to engage in criminal activities if he were released.

Accordingly, the court finds the Government has proved by a preponderance of the evidence that Range is a flight risk, and by clear and convincing evidence that Range would be a danger to the community if released. Therefore, the court finds the following:

1. Range is committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal.
2. The Attorney General shall afford Range reasonable opportunity for private consultation with counsel while detained.
3. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver Range to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

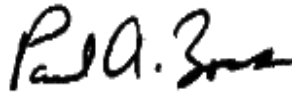
4. If a “review” motion for revocation or amendment is filed, pursuant to 28 U.S.C. § 3145(a) or (b), the party requesting a change in the original order *must*:

- (a) Attach a copy of the release/detention order to the appeal;
- (b) Promptly secure a transcript.

5. There is *no automatic stay* of this Order. Therefore, Range must request such relief from the court.

**IT IS SO ORDERED.**

**DATED** this 28th day of August, 2006.



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PAUL A. ZOSS  
MAGISTRATE JUDGE  
UNITED STATES DISTRICT COURT